

CALIFORNIA POLITICAL LAW, INC.

RECEIVED
FEDERAL ELECTION
COMMISSION

2009 DEC 14 PM 1:03

OFFICE OF GENERAL
COUNSEL

December 3, 2009

Via Facsimile & US Mail

Thomasenia Duncan, Esq.
General Counsel
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Re: MUR 6226

Dear Ms. Duncan:

This letter is submitted as a response to the Complaint filed against John Garamendi ("Garamendi") and Garamendi for Congress ("the Committee") in MUR 6226. The Complaint alleges violation of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Federal Election Commission ("FEC") regulations relating to disclaimer requirements for television communications authorized by candidates. (11 CFR § 110.11(c)(3)(iii).)

Garamendi for Congress is the authorized principal campaign committee of John Garamendi. Garamendi participated in a special election for the U.S. House of Representatives for California's 10th Congressional District on November 3, 2009. The "Bad Penny" advertisement, which is the subject of the complaint, includes a written statement that identifies the candidate, John Garamendi. The advertisement contains a clear photo of Mr. Garamendi, along with written statements "Garamendi for Congress" and "Paid for by Garamendi for Congress." Simultaneously, John Garamendi states in a verbal voice-over that he approves the message. The text of "Bad Penny" is included as Attachment A and if you wish to receive an electronic version of the ad, we would be pleased to provide it.

No intent to mislead voters regarding the party that paid for and approved the advertisement existed. Any voter watching the advertisement would have no doubt that the campaign approved the communication based on the verbal statement by Mr. Garamendi that he approved of the message. Even a viewer watching with no sound would understand that the campaign issued and approved the advertisement due to the written statement that the campaign paid for the advertisement. Thus, the disclaimer was clear and conspicuous and the placement could not be easily overlooked.

10044263623

Thomasenia Duncan, Esq.

Re: MUR 6226

December 4, 2009

Page 2

The individual who produced the Committee's advertisements, Paul Kinney ("Kinney") of Paul Kinney Productions, is experienced in producing political advertisements. He has produced more than 20 spots for federal candidates along with extensive work for local and state candidates in California. He believed that the included disclaimers were adequate and that the "Bad Penny" advertisement complied with federal requirements. The advertisement was not provided to legal counsel for review prior to being aired. The Committee received a copy of Mr. Bell's complaint from the FEC after the election, and after the advertisement had ceased airing, so had no opportunity to review the disclaimer in response to Mr. Bell's complaint while the ad was still being aired. We have advised Kinney regarding the correct disclaimer requirements and will endeavor to ensure that future advertisements produced by the Committee comply with all FEC regulations.

John Garamendi and the Committee substantially complied with the law because the advertisement's other verbal and written disclaimers provided ample information to voters so as to not mislead them. Accordingly, we respectfully request that the Federal Election Commission dismiss this Complaint.

Sincerely,



Betty Ann Downing

Treasurer, Garamendi for Congress

Legal Counsel, Garamendi for Congress and Congressman John Garamendi

Attachment

ATTACHMENT A

Text of advertisement script "Bad Penny"

ANNOUNCER: Like pennies, each election has two sides. For Congress, on one side is Lieutenant Governor John Garamendi, a thirty-year fighter for public schools. On the other is conservative Republican David Harmer, who wrote a book that proposes ending public education. He also supports privatizing Social Security and cutting Medicare. John Garamendi will fight for seniors and stop any attempt to privatize or weaken Social Security and Medicare. We don't want the bad penny. On November third, John Garamendi for Congress. The right experience when we need it the most.

JOHN GARAMENDI: I'm John Garamendi, and I approve this message.

Written text:

30-Year fighter for public schools

"School choice: Why You Need It - How To Get It" David Harmer 1994

**"... Social Security needs to be cut and privatized ...and cut Medicare..." Salt Lake Tribune
2.22.96**

**Fights for seniors, supports Social Security and Medicare
Garamendi for Congress**

PAID FOR BY GARAMENDI FOR CONGRESS

10044263625